

Frequently Asked Questions In-Use Off-Road Diesel Vehicle Regulation

Dealer/Seller Disclosure of Regulation Applicability Revised March 2014

Q – What is “disclosure”?

A – The Off-Road Regulation requires sellers in California of off-road vehicles subject to the Regulation (self-propelled diesel-fueled vehicles 25 horsepower and greater that were not designed to be driven on-road) to notify the buyer that the vehicle may be subject to the Regulation, and therefore could be subject to retrofit or accelerated replacement/repower requirements. The disclosure must be printed on the bill of sale or invoice when the vehicle is sold. Section 2449(j) of the Off-Road Regulation includes the specific language that must be used for the disclosure:

“When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board website at <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>. ”

Q – Am I required to include the disclosure if I’m selling the vehicle to someone who will only use it outside of California?

A – If the sale occurs in California, the disclosure is still required, even if the buyer indicates they are going to move the vehicle outside of the State. If the sale occurs outside of California, the disclosure is not required.

Q – If I buy an off-road diesel vehicle outside of California, but I told the buyer I am bringing it to California, is the seller required to include the disclosure on the bill of sale?

A – No; the disclosure requirement does not apply to a seller in another state. However, the vehicle will still be subject to the Off-Road Regulation if it is brought to California.

While this document is intended to assist fleet owners with their compliance efforts, it does not alter or modify the terms of any ARB regulation. It is the sole responsibility of fleet owners to ensure compliance with the In-Use Off-Road Diesel Vehicle Regulation.

Q – As a seller, am I required to maintain a copy of the disclosure after I’ve sold an off-road diesel vehicle in California?

A – Yes; section 2449(h)(10) of the Off-Road Regulation requires any person selling a vehicle with an engine subject to the regulation in California to maintain records of the disclosure of regulation applicability for three years after the sale.

Q – Are off-road diesel vehicles purchased at an auction in California required to include the disclosure statement?

A – Yes; the seller, even if it is an auction house, is required to include the disclosure on the bill of sale or invoice.

Q – If an auction house sells a vehicle for a fleet owner, and the selling fleet owner does not know the buyer, is the selling fleet owner required to provide the disclosure to the auction house?

A – It depends on whether or not ownership is first transferred to the auction house. If the auction house sells a vehicle for the fleet owner (e.g., the fleet owner enters into an agreement for the auction house to sell the vehicle, but ownership is not transferred to the auction house), the fleet owner does not need to provide disclosure to the auction house. However, the fleet owner is still responsible for providing the disclosure to the buyer, so they must ensure that the sales disclosure is provided on the bill of sale. Additionally, the selling fleet owner must maintain a copy of that bill of sale showing the disclosure statement for at least three years following the sale.

If ownership is transferred from the selling fleet owner to the auction house, the selling fleet owner is required to provide the disclosure statement at the time ownership is transferred to the auction house and must maintain those records for at least three years. The auction house must also provide the disclosure when they sell the vehicle, if the vehicle is sold in California.

Q – If I sell an off-road diesel vehicle to a scrap yard, am I still required to include the disclosure?

A – Yes; if the sale occurs in California, the disclosure is still required, since the scrap yard could either use the vehicle or sell it to another buyer (in which case, the scrap yard would also be required to include the disclosure of regulation applicability).

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Q – If I trade in an off-road diesel vehicle to a dealer, am I still required to include the disclosure?

A – Yes; if the trade-in occurs in California, the seller is still required to include the disclosure on the bill of sale, since the trade-in is a type of sale or transfer of ownership. If the dealer is preparing the bill of sale for the seller upon trade-in, the seller is still ultimately responsible for ensuring the disclosure is included on the document.

Q – I am not subject to the Off-Road Regulation because my vehicles only operate at a California port or intermodal rail yard; am I still required to include the disclosure of regulation applicability when I sell one of my off-road diesel vehicles in California?

A – If the vehicle is being sold to someone outside of a California port or intermodal rail yard, then the disclosure is required. While the disclosure is not required if the vehicle is being sold to a buyer at another port or intermodal rail yard in California, ARB encourages the seller to include the disclosure so that the buyer is aware of the Off-Road Regulation (in case the buyer chooses to operate the vehicle at a location other than a California port or intermodal rail yard).

Q – Is a seller required to include the disclosure *prior* to the sale?

A – While not required, ARB encourages sellers to provide the disclosure prior to the sale so that the buyer can be aware of the Off-Road Regulation when making a buying decision. The disclosure is required, however, on the bill of sale or sales invoice.

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